Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. No. 4454 of 2004

PETITIONER Mohd. Kasim, S/o. Abdul Raheeem, aged about 42 years, Occupation- Engineering Workshop, Resident of Block Colony Gharghoda, District – Raigarh (C.G.)

P.R. No. 4553/04
Presented by Shri Abdul Rafiq
dated 22/11/04

VERSUS

RESPONDENTS 1) State of Chhattisgarh
Through Secretary
Revenue Department,
D.K.S. Bhawan Raipur (C.G.)

2) Tahseeldar, Gharghoda,
District – Raigarh (C.G.)

3) Election Officer
Nagar Panchayat Gharghoda,
District Raigarh,
Through Collector Raigarh (C.G.)

WRIT PETITION UNDER ARTICLE 226 & 227 OF CONSTITUTION OF INDIA

The Petitioner most respectfully states as under: -

1) **Particulars of the Petitioner:-**

Particulars of the petitioner are same as above in the cause title.

(27)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.4454/ सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25.11.2004 Smt. Hamida Siddique, counsel for the petitioner. Shri Naval Kishore Agrawal, Deputy Advocate General for the State/respondents. Heard both the counsel. The petitioner has preferred this writ petition under Articles 226 and 227 of the Constitution of India, being aggrieved by the order dated 8.11.2004 (Annexure P-1) passed by the Tehsildar, whereby the request of the petitioner has been turned down to issue him the provisional caste certificate of OBC caste. The case of the petitioner is that he is a voter of ward No.2, Nagar Panchayat, Gharghoda. In the year 1994 he contested the election of ward member as an OBC candidate and was declared elected. In the year 1994 when the petitioner contested the election, caste certificate showing him as OBC was issued by the erstwhile State of Madhya Pradesh. The petitioner belongs to Kasai caste, which comes under the schedule of OBC. Momin alone is not a caste. Momin means the person who belongs to Muslim community or the person who believes and follows the rule of Islam. The petitioner wants to fight election for the post of ward member as OBC	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

candidate. The petitioner also submitted a report (Annexure P-3) prepared by the Patwari in which he has been shown as Kasai. The petitioner submitted a certificate (Annexure P-4) from the Muslim Jamat Committee in which he has been shown as Kasai. The petitioner even submitted an affidavit before the Tehsildar showing that he is by caste Kasai. The petitioner submitted a copy of the register of house tax (Annexure P-7) in which his caste is shown as Kasai. However, the Tehsildar ignored all these documents and merely on the basis of Momin caste written in the mark sheet (Annexure P-9) of the petitioner's daughter, the Tehsildar has rejected the request of the petitioner.

Perusal of Patwari report (Annexure P-3) shows that sub-caste of the petitioner is Kasai. Similarly, even though, the petitioner is Sadar, Adhyaksh of the Jama Masjid Committee, but he has also issued certificate that he is Kasai and in the affidavit (Annexure P-5) submitted before the Tehsildar ~~in which~~ he has shown his caste as Kasai, in the house tax register the petitioner's caste is shown as Kasai, no reason has been assigned by the Tehsildar while passing the impugned order as to why the Patwari report, the house tax register, and the affidavit of the petitioner should not be believed.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.4454/ सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the circumstances, the petitioner is allowed to file a representation before the District Election Officer with all these documents and other supporting material, if any, by today evening or at least by tomorrow, and the Collector Raigarh is directed to decide his application by 27th November, 2004, after considering all the documents, in accordance with law. With the aforesaid observations and directions, the petition stands disposed of. Consequently, M.(W.)P.No.4795/2004 also stands disposed of. Certified copy immediately. Sd/- L.C.BHADOO Judge Soma	

[पीछे देखिये